IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MARIA WILLIAMS-BELL, Individually, and on Behalf of All Others Similarly Situated,	)	
Plaintiffs,	)	
	)	**Case No.: 1:14-cv-1002**
v.	)	
PERRY JOHNSON REGISTRARS, INC. and TERRY BOBOIGE	)	**(JURY TRIAL DEMANDED)**
Defendants.	)	

COMPLAINT

Plaintiff, MARIA WILLIAMS-BELL, individually and on behalf of all other similarly situated employees, by and through her counsel, brings claims as a Collective Action pursuant to the Fair Labor Standards Act, 29 U.S.C. §§201 *et seq.* (the "FLSA"), and as a Class Action pursuant to the Federal Rules of Civil Procedure, Rule 23 and in accordance with Illinois state wage and hour law against Defendants, its subsidiaries and affiliates, and alleges, upon personal belief as to herself and her own acts, and as for all other matters, upon information and belief, and based upon the investigation made by his counsel, as follows:

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction over this action pursuant to 29 U.S.C. §216(b), which provides that suit under the FLSA "may be maintained against any employer… in any Federal or State court of competent jurisdiction." The representative Plaintiff has signed an opt-in consent form to join this lawsuit (Exhibit A).

2. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. §1331.

3. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because Defendants do business within this District. In addition, a substantial part of the events and omissions giving rise to the claims pleaded in this Complaint occurred within this District.

PARTIES

5. Maria Williams-Bell is a resident of Illinois and worked for Defendants as an auditor and lead auditor from 2005 to the present date.

6. Maria Williams-Bell brings this case on behalf of herself and other similarly situated employees who currently work, or who worked for Defendants during the applicable statutory periods.

7. Defendants Perry Johnson Registrars, Inc. ("PJR") is a full service registrar that provides registration services to customers in the state of Illinois and across the country and is an "employer" within the meaning of 29 U.S.C. §203(d) of the FLSA.

8. Defendant, Terry Boboige, is the President of PJR. In this capacity, Boboige is involved in the day to day business operations of PJR and has authority to hire and fire employees, the authority to direct and supervise the work of auditors, including the Plaintiff in this case, the authority to sign on corporate checking accounts, including payroll accounts, and the authority to make decisions regarding wage and hour classifications. At all relevant times, Boboige acted and had responsibility to act on behalf and in the interests of PJR in devising, directing, implementing and supervising the wage and hour practices and policies relating to auditors, including the decision to not pay Plaintiff an overtime premium as required by the FLSA and

IMWL. As such, at all times hereinafter mentioned, Defendant, Boboige has been and is an "employer" as defined by the FLSA, 29 U.S.C § 203(d) and the IMWL, 820 ILCS 105/3(c)

FACTUAL BACKGROUND

9. Plaintiff and class members are individuals who have worked for Defendants as auditors and lead auditors (hereinafter "auditors") during the statutory period and who were not paid overtime pay when they worked in excess of 40 hours per week.

10. Plaintiffs and all class members were improperly classified by Defendants as independent contractors and were paid a daily rate for each audit they completed.

11. At all times, Defendants maintained direct supervisory authority and control over Plaintiffs and all class members. Amongst other things, Defendants: conducted extensive evaluations of prospective auditors, including background checks; hired and fired auditors; provided mandatory training; required auditors to comply with the PJR Handbook; scheduled auditors; assigned jobs to auditors; set the length of time for audits; provided auditors with PJR business cards; set the daily rate of pay for auditors; made flight, rental car, hotel and other travel arrangements for auditors and paid for such accommodations; paid auditors a daily per diem for meals; provided auditors with written advisories instructing them on how to perform their jobs; required auditors to follow explicit PJR directives when conducting audits; mandated that auditors use PJR forms, paperwork and templates when completing audits; provided auditors with secure access to the PJR network and required them to conduct their work on such network; and prohibited auditors from working for any of Defendants' clients.

12. The Plaintiffs performed the same work as PJR - conducting audits for PJR customers. In fact, Defendants employ other auditors, who perform the same work and are subject to the same conditions as the Plaintiffs, as W-2 employees.

13. Despite the requirement to do so, Defendants failed to keep accurate records of the time actually worked by the Plaintiff and class members.

14. Defendants improperly failed to pay Plaintiff and class members all compensation rightfully due, including but not limited to, overtime pay.

15. Defendants knew, and were aware at all times, of the above mentioned violations.

16. The conduct alleged above reduced Defendants' labor and payroll costs.

17. Plaintiff and class members were subject to Defendants' uniform policies and practices and were victims of Defendants' schemes to misclassify them as independent contractors and deprive them of wages and overtime compensation. As a result of Defendants' improper and willful failure to pay Plaintiff and class members in accordance with the requirements of Illinois and federal wage and hour laws, Plaintiffs and class members suffered lost wages and other damages.

FLSA COLLECTIVE ACTION ALLEGATONS

18. Representative Plaintiff, Maria Williams-Bell, brings this case as a collective action on behalf of herself and all other similarly situated individuals pursuant to 29 U.S.C. §216(b) to recover unpaid wages, unpaid overtime compensation, liquidated damages, unlawfully withheld wages, statutory penalties, attorneys' fees and costs, and other damages owed.

19. The proposed opt-in collective class of similarly situated persons is defined as:

> All individuals who worked for Defendants, its subsidiaries or affiliated companies, as auditors and who were misclassified as independent contractors during the relevant statute of limitations period.

20. This action is properly maintained as a collective action because the Representative Plaintiff is similarly situated to the members of the collective class with respect to Defendants'

failure to pay overtime hours and the wage and hour violations alleged in this Complaint, amongst other things.

21. Defendants encouraged, suffered and permitted the representative Plaintiff and the collective class to work more than forty (40) hours in certain weeks without the proper overtime compensation.

22. Defendants knew that the representative Plaintiff and the collective class performed work that required additional wages and overtime compensation to be paid. Nonetheless, Defendants operated under a scheme, as described above, to deprive the representative Plaintiff and the collective class of wages and overtime compensation.

23. Defendants' conduct, as alleged herein, was willful and has caused significant damage to the representative Plaintiff and the collective class.

24. Defendants are liable under the FLSA for failing to properly compensate the representative Plaintiff and the collective class. Plaintiff requests that the Court authorize notice to the members of the collective class to inform them of the pendency of this action and their right to "opt-in" to this lawsuit pursuant to 29 U.S.C. §216(b), for the purpose of seeking unpaid wages, unpaid overtime compensation, liquidated damages under the FLSA, and the other relief requested herein.

25. Plaintiff estimates that there are several hundred members of the collective class. The precise number of collective class members can be easily ascertained by using Defendants' payroll and personnel records. Given the composition and size of the class, members of the collective class may be informed of the pendency of this action directly via U.S. mail and e-mail.

CLASS ALLEGATIONS

26. Representative Plaintiff, Maria Williams-Bell brings claims for relief on her own and as a class action pursuant to Rule 23(a) and Rule 23(b). The class is defined as:

> All individuals who worked for Defendants, its subsidiaries or affiliated companies, as auditors and who were misclassified as independent contractors during the relevant statute of limitations period.

27. This action is properly maintainable as a class action because:

   a. The class is so numerous that joinder of all members is impracticable;

   b. There are questions of law or fact that are common to the class;

   c. The claims or defenses of the representative Plaintiff are typical of the claims or defenses of the class; and,

   d. The Representative Plaintiff will fairly and adequately protect the interests of the class.

Numerosity

28. On information and belief, the total number of putative class members represents at least fifty individuals. The exact number of class members may be determined from Defendants' records.

Commonality

29. There are numerous and substantial questions of law and fact common to members of the state classes including, but not limited to, the following:

   a. Whether Defendants misclassified Plaintiff and class members as independent contractors;

   b. Whether Defendants failed to keep true and accurate time records for all hours worked by the Plaintiff and class members;

   c. Whether Defendants failed to compensate the Plaintiff and class members for all the work they required, encouraged or permitted class members to perform;

d. Whether Defendants failed to compensate the Plaintiff and class members for all work performed in excess of 40 hours per work week with overtime premium wages; and,

e. Whether the Defendants willfully failed to comply with state wage and hour laws.

30. Plaintiff anticipates that Defendants will raise defenses that are common to the class.

Adequacy

31. The Representative Plaintiff will fairly and adequately protect the interests of the class. She has retained experienced counsel that are competent in the prosecution of complex litigation and who have experience acting as class counsel specifically in wage and hour litigation.

Typicality

32. The claims asserted by the Representative Plaintiff are typical of the class members she seeks to represent. The Representative Plaintiff has the same interest and suffers from the same injuries as the class members.

33. Upon information and belief, there are no other class members who have an interest individually controlling the prosecution of his or her individual claims, especially in light of the difficulties involved in bringing individual litigation against one's employer. However, if any such class member should become known, he or she can "opt out" of this action pursuant to Rule

Common Questions of Law and Fact Predominate and a Class Action is Superior to Joinder of Claims or Individual Lawsuits

34. The numerous common questions of law and fact set forth in the commonality discussion above predominate over individual questions because Defendants' alleged underlying activities and impact of their policies and practices affected class members in the same manner: they were improperly classified as independent contractors and subjected to a policy of suffering overtime work without pay.

35. A class action is superior to other available means for the fair and efficient adjudication of this controversy because the individual joinder of the parties is impracticable. Class action treatment will allow a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of effort and expenses if these claims were brought individually. Moreover, as the burden of individual litigation would make it difficult for plaintiffs to bring individual claims. The presentation of separate actions by individual class members could create a risk of inconsistent and varying adjudications, establish incompatible standards of conduct for Defendant and/or substantially impair or impede the ability of class members to protect their interests.

COUNT I

VIOLATION OF THE FAIR LABOR STANDARDS ACT

36. Plaintiff incorporates by reference all preceding paragraphs.

37. The Representative Plaintiff and other auditors are similarly situated individuals within the meaning of the FLSA, 29 U.S.C. §216(b).

38. Section 207(a)(1) of the FLSA states that an employee must be paid overtime, equal to at least 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 hours per week.

39. The FLSA requires that overtime be calculated by the employer on a "workweek" basis, meaning employees are entitled to an overtime premium of 1½ times their regular rate of pay for all time worked in excess of forty (40) hours in any given workweek. 29 U.S.C. § 207(a)(1).

40. Plaintiff and class members worked in excess of 40 hours during certain weeks for the Defendants, but were not properly paid overtime wages in violation of the FLSA.

41. Through its actions, policies and practices, Defendants violated the FLSA by regularly and repeatedly failing to compensate the Representative Plaintiff and other workers for all actual overtime worked at the proper rate of pay.

42. Defendants also willfully failed to pay overtime wages and other benefits to the Plaintiff and class members by failing to keep accurate time records to avoid paying them overtime wages and benefits.

43. The foregoing actions of Defendants violated the FLSA.

44. Defendants' actions were willful and not in good faith.

45. As a direct and proximate cause of Defendants' unlawful conduct, Plaintiff and class members have suffered and will continue to suffer a loss of income and other damages.

46. Defendants are liable to Plaintiff and other members of the class for actual damages, liquidated damages and equitable relief, pursuant to 29 U.S.C. §216(b), as well as reasonable attorneys' fees, costs and expenses.

47. Plaintiff is also entitled to injunctive relief to prevent Defendants from continuing their violation of the FLSA and other appropriate class-wide injunctive relief.

COUNT II

VIOLATION OF ILLINOIS MINIMUM WAGE LAW

48. Plaintiff incorporates by reference all preceding paragraphs.

49. Plaintiff is a member of a class that meets the requirements for certification and maintenance of a class action pursuant to Rule 23.

50. Defendants are "employers" and Plaintiff and class members are "employees" under Illinois Minimum Wage Law ("IMWL"), 820 ILCS §§105 *et seq*.

51. The IMWL, 820 ILCS §§105 *et seq.*, requires employers to pay employees minimum wages for all hours worked. Section 105/4(a) of the IMWL requires employers to pay employees one and one half times their regular rate for all hours worked over forty (40) per work week. The IMWL requires that overtime be calculated by the employer on a "workweek" basis, meaning employees are entitled to an overtime premium of 1½ times their regular rate of pay for all time worked in excess of forty (40) hours in any given workweek. *Id.*

52. Section 105/12 of the IMWL provides that employers who violate the provisions of this act are liable to affected employees for unpaid wages, costs, attorney's fees, damages of 2% of the amount of any such underpayment for each month following the date of underpayments and other appropriate relief.

53. Defendants violated IMWL, 820 ILCS §§105 *et seq.*, by regularly and repeatedly failing to properly compensate Plaintiff and class members for the actual overtime they worked each week.

54. Defendants violated IMWL, 820 ILCS §§105 *et seq.*, by failing to maintain accurate records of all hours worked by Plaintiff and class members.

55. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff and class members have suffered and will continue to suffer lost wages and other damages.

56. Plaintiff and class members are also entitled to injunctive relief to prevent Defendants from continuing their violation of these statutory provisions and other appropriate class-wide injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, MARIA WILLIAMS-BELL, individually and on behalf of all others similarly situated, by and through her attorneys demands judgment against the Defendants and in favor of the Plaintiff and all others similarly situated, for a sum that will properly, adequately and completely compensate Plaintiffs for the nature, extent and duration of their damages, the costs of this action and as follows:

A. Order the Defendants to file with this Court and furnish to counsel a list of all names, telephone numbers, home addresses and emails of all auditors within the last three years;

B. Authorize Plaintiff's counsel to issue notice at the earliest possible time to all auditors that have worked for the Defendants within the last three years, informing them that this action has been filed, of the nature of the action, and of their right to opt-in to this lawsuit if they were deprived of regular wages and overtime compensation, as required by the FLSA;

C. Certify a class for Counts I and II of all individuals who are currently employed, by the Defendants, its subsidiaries or affiliated companies, as auditors during the relevant statute of limitations period.

D. Appoint Stephan Zouras, LLP as counsel for the Plaintiffs;

E. Declare and find that the Defendants committed one or more of the following acts:

   i. Violated provisions of the FLSA by failing to pay overtime wages and other benefits to Plaintiff and similarly situated persons who opt-in to this action;

   ii. Willfully violated provisions of the FLSA; and

   iii. Violated the Illinois Minimum Wage Law, 820 ILCS §105 *et seq.*, by failing to pay overtime wages to Plaintiff and class members.

F. Award compensatory damages, including all pay owed in an amount according to proof;

G. Award 2% per month interest on all overtime compensation due accruing from the date such amounts were due until it is paid;

H. Award liquidated damages on all compensation due accruing from the date such amounts were due;

I. Award all costs and reasonable attorneys' fees incurred prosecuting this claim;

J. Grant leave to amend to add claims under applicable state and federal laws;

K. Grant leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court; and,

L. For such further relief as the Court deems just and equitable.

Dated: February 12, 2014

Respectfully Submitted,

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ATTORNEYS FOR THE PLAINTIFFS